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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.1155 OF 2007
IN
FIRST APPEAL NO.3153 OF 2006

The United Indian Insurance Co. Ltd. ... Applicant

V/s.

Vijay R. Rao & Anr. ... Respondents

Mr.R.S. Darandale for Applicant
Mr.S.S. Patil for Respondents

CORAM: **S.B. MHASE &**
SMT.NISHITA MHATRE, JJ.

DATED: **MARCH 7, 2007**

P.C.:

. Heard.

2. This First Appeal is filed by the Appellant-Insurance Company. Respondent No.1 in the appeal is the original claimant. Respondent No.2 is the owner of the vehicle. The Motor Accident Claims Tribunal by its order dated 3.7.2006 directed the appellant insurance company to pay jointly and severally compensation of sum of Rs.42,55,000 inclusive of no fault liability amount of Rs.25,000/- alongwith simple interest @7.5% p.a. from the date of application till realisation. The said order is challenged by the present Appeal.

3. At the time of admission of the Appeal, while granting a stay, the insurance company was directed to deposit Rs.30 lacs and accordingly Rs.30 lacs have been deposited by the Insurance company. Civil Application No.1155 of 2007 has been filed by the original claimant for withdrawal of the amount. The learned Counsel for the claimant submitted that he may be allowed to withdraw Rs.30 lacs which has been deposited by the insurance company. The learned Counsel for the Insurance Company submitted that it is a personal injury claim and if the appeal is allowed, it would be very difficult for it to recover the amount and therefore he objects to the release of the amount in favour of the claimant.

4. What we find is that no doubt it is a personal injury claim but the claimant has suffered severe injury and, therefore, some relief will have to be granted to the original claimant. We find it appropriate to release an amount of Rs.15 lacs out of Rs.30 lacs to the claimant. We, however, find it appropriate that the Insurance Company be directed to deposit the remaining decretal amount alongwith costs and interest. Therefore, we pass the following order:

i) The Motor Accidents Claims Tribunal is hereby

directed to allow the original claimant to withdraw Rs.15 lacs out of Rs.30 lacs deposited by the Insurance company.

ii) We further direct the Insurance company to deposit the remaining decretal amount alongwith interest and costs, etc. within a period of 8 weeks. We direct the Tribunal to invest the remaining amount i.e., Rs.15 lacs presently lying with it and the remaining amount to be deposited by the Insurance Company as per the directions given by this Court in this order with a Nationalised bank initially for a period of 3 years and if within that period, the Appeal is not disposed off, the Tribunal shall continue to deposit the said amount on year to year basis till the final disposal of this Appeal.

5. With these directions, the Civil Application is disposed off.

(NISHITA MHATRE, J.) (S.B. MHASE, J.)